

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 9/24/04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that massage therapy, office visits, ultrasound, electric stimulation, hot/cold pack, chiropractic manipulation, therapeutic exercises, therapeutic activities, and cont. passive motion rendered on 9/05/03 through 2/27/04 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 11/09/04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

No EOB: Neither party in the dispute submitted EOBs for the disputed services identified below. The Requestor submitted a copy of a signed U.S. Postal Service green card that supports bills were received by the Carrier in accordance with Rule 133.308(f)(3). Since the Carrier did not raise the issue that they had not had the opportunity to audit these bills and did not submit copies of EOBs the Medical Review Division will review these services per the *Medical Fee Guideline*.

**CPT code 97124 for dates of service 9/03/03, 9/29/03, 10/01/02, 10/08/03, 11/03/03, 11/07/03, 11/10/03, 11/12/03, 11/14/03, 12/08/03, 12/10/03, and 12/15/03 – Reimbursement in the amount of \$308.40 (\$25.70 MAR x 12 DOS).**

**CPT code 97124 for date of service 1/05/04 – Reimbursement in the amount of \$26.28 (MAR) is recommended.**

**CPT code 99212 for date of service 10/24/03 – Reimbursement in the amount of \$41.91 (MAR) is recommended.**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202(c) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 9/03/03 through 1/05/04 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 19<sup>th</sup> day of January 2005.

Pat DeVries  
Medical Dispute Resolution Officer  
Medical Review Division

PRD/prd

Enclosure: IRO Decision

December 17, 2004

Texas Workers Compensation Commission  
MS48  
7551 Metro Center Drive, Suite 100  
Austin, Texas 78744-1609

#### **NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-05-0373-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor: Allied Multicare Centers**  
**Respondent: Transcontinental Insurance Co.**  
**MAXIMUS Case #: TW04-0492**

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The MAXIMUS chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS

chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a 66 year-old male who sustained a work related injury on \_\_\_\_\_. The patient reported that while at work he injured his neck, low back, arm and leg when he attempted to lock the tailgate on his truck with a chain when it came loose, and jerked him. An ultrasound of the cervical spine performed on 10/11/02 revealed an inflammatory reaction at the cervical spine facet joint margins, intact synovial membranes at the C3-7 level, sprain/strain of the cervical spine, degenerative joint disease to the cervical spine, swelling at the L2 & L5 level, joint inflammation at the L1-L5 levels, and degenerative joint disease. The diagnoses for this patient have included cervical spondylosis at the C5-6 and C6-7 level, s/p bilateral partial laminectomies C4-5, C5-6, and C6-7 with foraminotomies and decompression of C5, C6 and C7 nerve roots. Postoperatively the patient received therapy and work hardening. The patient has also been treated with medications, as well as individual psychotherapy counseling.

### Requested Services

Massage therapy, office visits, ultrasound, electric stimulation, hot/cold pack, chiropractic manipulation, therapeutic exercises, therapeutic activities, and cont. passive motion from 9/5/03 through 2/27/04.

### Documents and/or information used by the reviewer to reach a decision:

#### *Documents Submitted by Requestor:*

1. Electrodiagnostic Reports 10/10/02
2. Ultrasound Report 10/11/02
3. Monthly progress notes 2/4/03 – 11/17/03
4. Required Medical Exam 3/3/04
5. Peer Review Summary 5/21/03
6. Daily Notes Report 10/7/02 – 10/11/04

#### *Documents Submitted by Respondent:*

1. Same as above.

### Decision

The Carrier's denial of authorization for the requested services is upheld.

### Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a 66 year-old male who sustained a work related injury to his neck, low back, arm and leg on \_\_\_\_\_. The MAXIMUS chiropractor reviewer also noted that the diagnoses for this patient have included cervical spondylosis, status post bilateral partial laminectomies with foraminotomies and decompression.

The MAXIMUS chiropractor reviewer further noted that treatment for this patient's condition has consisted of therapy, work hardening, and individual psychotherapy. The MAXIMUS chiropractor reviewer indicated that the treatment notes provided in the case file failed to show that this patient improved with the treatment rendered. The MAXIMUS chiropractor reviewer explained that although the patient received a significant amount of treatment, the SOAP notes provided do not demonstrate that the patient's condition improved. Therefore, the MAXIMUS chiropractor consultant concluded that the massage therapy, office visits, ultrasound, electric stimulation, hot/cold pack, chiropractic manipulation, therapeutic exercises, therapeutic activities, and cont. passive motion from 9/5/03 through 2/27/04 were not medically necessary to treat this patient's condition.

Sincerely,  
**MAXIMUS**

Elizabeth McDonald  
State Appeals Department